



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 114, 116, 118, 122, 175, 177, 181, and 185

[Docket No. USCG-2021-0306]

RIN 1625-AC69

Fire Safety of Small Passenger Vessels

AGENCY: Coast Guard, DHS.

ACTION: Interim rule.

SUMMARY: The Coast Guard is issuing an interim rule as the first step to implementing the statutorily mandated requirements for fire safety on certain covered small passenger vessels. This statutory mandate is in response to the fire and loss of life on the dive boat *CONCEPTION* off the coast of California on September 2, 2019. This interim rule adds additional fire safety requirements for small passenger vessels, including fire detection and suppression systems, avenues of escape, egress drills, crew firefighting training, watchmen monitoring devices, and the handling of flammable items such as rechargeable batteries.

DATES: This interim rule is effective March 28, 2022, except for amendatory instruction numbers 13, 14, 29, and 31 adding of § 122.507(b), amending 122.515, adding 185.507(b), and adding 185.515(a), respectively, which are delayed indefinitely. The Coast Guard will publish a document in the **Federal Register** announcing the effective date of those additions. Comments and related material must be received by the Coast Guard on or before June 27, 2022. Comments on the collection of information must be received by the Coast Guard on or before January 26, 2022. The incorporation by

reference of the material in § 181.450 was approved by the Director of the Federal Register as of March 11, 1996.

ADDRESSES: You may submit comments identified by docket number USCG-2021-0306 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. To view documents mentioned in this interim rule as being available in the docket, search the docket number USCG-2021-0306 using the Federal eRulemaking Portal at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Lieutenant Carmine Faul, Coast Guard; telephone 202-475-1357, email carmine.a.faul@uscg.mil.

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I. Abbreviations

2020 CGAA	Elijah E. Cummings Coast Guard Authorization Act of 2020
DHS	Department of Homeland Security
CFR	Code of Federal Regulations
FR	Federal Register

IBR	Incorporated by Reference
NPRM	Notice of proposed rulemaking
NRTL	Nationally recognized testing laboratory
NTSB	National Transportation Safety Board
OCMI	Officer in Charge, Marine Inspection
OMB	Office of Management and Budget
§	Section
SPV	Small passenger vessel
UL	Underwriter Laboratories
U.S.C.	United States Code

II. Basis and Purpose

Section 8441 of the Elijah E. Cummings Coast Guard Authorization Act of 2020 (2020 CGAA) amended Title 46 of the United States Code (U.S.C.), section 3306, which now directs the Secretary of the Department of Homeland Security (DHS) to prescribe fire safety regulations for certain “covered small passenger vessels,” defined as small passenger vessels (SPVs) with overnight accommodations for passengers or operating on Oceans or Coastwise routes, excluding fishing vessels and ferries. (See Public Law 116-283, January 1, 2021.) The 2020 CGAA added a new paragraph (n) to section 3306 which requires the Secretary to issue interim requirements to cover the following eight provisions:

1. Marine firefighting training programs to improve crewmember training and proficiency, including egress training for each member of the crew;
2. Interconnected fire detection equipment and additional fire extinguishers and firefighting equipment in all areas on board where passengers and crew have access;
3. Installation and use of monitoring devices to ensure wakefulness of the required night watch (for covered SPVs with overnight passenger accommodations);
4. Increased fire detection and suppression systems in unmanned areas with machinery or areas with other potential heat sources;
5. No less than two independent avenues of escape for all general areas accessible to passengers, that are constructed and arranged to allow for unobstructed egress,

located so that if one avenue of escape is not available, another avenue of escape is available, and not directly above, or dependent on, a berth (for covered SPVs with overnight passenger accommodations);

6. Handling, storage, and operation of flammable items, such as rechargeable batteries, including lithium-ion batteries;
7. Requirements for passenger emergency egress drills (for covered SPVs with overnight passenger accommodations); and
8. Providing all passengers a copy of the emergency egress plan for the vessel (for covered SPVs with overnight passenger accommodations).

Section 46 U.S.C. 3306(n) requires that the Secretary perform a comprehensive review of all existing requirements for fire detection, protection, and suppression systems, and avenues of egress on covered SPVs to support the rulemaking. Prior to completing the comprehensive review and issuing final regulations, Section 46 U.S.C. 3306(n) requires that the Secretary implement interim requirements to enforce the fire safety provisions listed in Section 46 U.S.C. 3306(n)(3), which is the subject of this interim rule. The Secretary delegated the statutory authority to promulgate regulations related to passenger safety on vessels to the Coast Guard through DHS Delegation No. 00170.1(92)(b), Revision No. 01.2.

Section 3306(n)(4)(B) exempts the Coast Guard's implementation of the interim requirements from compliance with Chapters 5 and 6 of 5 U.S.C., and from Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review). This means that the interim requirements are exempt from several common rulemaking procedural steps, including:

- The public notice and comment requirements of the Administrative Procedure Act;
- The economic analysis requirements of the Regulatory Flexibility Act;

- The Unified Agenda, significance determination, and the Office of Information and Regulatory Affairs review requirements of Executive Order 12866; and
- Executive Order 13563 requirements that the rule impose the least burden and maximize net benefits.

The exemptions provided in the 2020 CGAA do not cover all the laws and Executive orders that potentially apply to rulemaking. The Federal Register Act, Paperwork Reduction Act, National Environmental Policy Act, and various Executive orders, such as those on Federalism, tribal consultation, and taking of property still apply and are considered in this preamble. We are issuing an interim rule with request for public comment to implement the interim requirements. In the future, we plan to issue final regulations after consideration of public comment and relevant matter presented from our comprehensive review. The comprehensive review will incorporate both technical and economic benefit-cost considerations not required to be addressed in this interim rule.

III. Background and Regulatory History

The mandates in 46 U.S.C. 3306(n) are an outcome of the fire onboard the 75-foot dive boat *CONCEPTION* on September 2, 2019, off the coast of Santa Cruz Island, California, resulting in the deaths of 34 persons. At approximately 3 a.m., fire broke out on the main deck directly above the lower deck berthing area where the 33 passengers and 1 crewmember were sleeping and ultimately perished.

The National Transportation Safety Board (NTSB) conducted an investigation of the incident and stated in its Marine Accident Report that, “the probable cause of the accident on board the SPV *CONCEPTION* was the failure of Truth Aquatics, Inc. to provide effective oversight of its vessel and crewmember operations, including requirements to ensure that a roving patrol was maintained, which allowed a fire of

unknown cause to grow, undetected, in the vicinity of the aft salon on the main deck.”¹

The NTSB determined that other contributing causes were inadequate smoke detection and inadequate egress arrangements. While the cause of the fire remains unknown, potential sources of ignition noted by the NTSB include malfunctioning lithium-ion batteries and overloading electrical circuits due to excessively connecting a series of rechargeable devices together using a single connection.

Furthermore, the NTSB issued safety recommendations to the Coast Guard in its October 20, 2020 Marine Accident Report discussing the *CONCEPTION* incident,² which we summarize as the following provisions:

- Revise 46 CFR Subchapter T to require all new and existing vessels with overnight accommodations to have smoke detectors in all accommodation spaces (M-20-014 & M-20-015);
- Revise Subchapters T and K to require all new and existing vessels with overnight accommodations to have interconnected smoke detectors (M-20-016);
- Develop and implement inspection procedures to verify that vessel owners, operators, and charterers are conducting roving patrols (M-20-017);
- Revise Subchapter T to require all new and existing vessels with overnight accommodations to provide secondary means of escape into a different space than the primary exit (M-20-018 & M-20-019); and
- Review suitability of Subchapter T regulations regarding means of escape for vessels constructed prior to 1996 (M-20-020).

¹ Fire Aboard Small Passenger Vessel *Conception*, Platts Harbor, Channel Islands National Park, Santa Cruz Island, 21.5 miles South-Southwest of Santa Barbara, California, September 2, 2019. Marine Accident Report. Adopted October 20, 2020. The report includes a total of 10 recommendations. <https://www.nts.gov/investigations/AccidentReports/Reports/MAR2003.pdf>

² *Id.* <https://www.nts.gov/investigations/AccidentReports/Reports/MAR2003.pdf>. The report contains 10 recommendations total. Seven of the recommendations are directed to the Coast Guard; two recommendations are for the Passenger Vessel Association, Sportfishing Association of California, and National Association of Charterboat Operator; and one recommendation is for Truth Aquatics.

This interim rule implements the requirements in 46 U.S.C. 3306(n)(4)(A) to add additional interim fire safety requirements for SPVs. The Coast Guard has several existing fire safety regulations for small passenger vessels in 46 CFR Subchapter K, titled “Small Passenger Vessels Carrying More Than 150 Passengers Or With Overnight Accommodations For More Than 49 Passengers,” and Subchapter T, titled “Small Passenger Vessels (Under 100 Gross Tons).” Subchapter K applies to small passenger vessels (as defined by 46 U.S.C. 2101, and implemented under Subchapter K) less than 100 GT that carry more than 150 passengers, or that have overnight accommodations for more than 49 passengers, and carry at least 1 passenger for hire. Subchapter T applies to small passenger vessels (as defined by 46 U.S.C. 2101, and implemented under Subchapter T) less than 100 GT that carry 150 or less passengers, or that have overnight accommodations for 49 or less passengers, and that carry more than 6 passengers, including at least 1 for hire.

On March 11, 1996, the Coast Guard implemented regulations generally applicable to “new vessels” (defined in 46 CFR 114.400 and 175.400), whereas several parts allowed “existing vessels” (defined in 46 CFR 114.400 and 175.400) to remain in compliance with regulations that existed on March 10, 1996. See 61 FR 864 (Jan. 10, 1996). This interim rule implements many of the statutory mandates by requiring certain small passenger vessels to come into compliance with a handful of fire safety and means of escape requirements implemented on March 11, 1996 that were previously only applicable to “new vessels.” This interim rule will increase the applicability of the Subchapter K and T requirements to “existing vessels” and also adds additional requirements, as directed by the 2020 CGAA.

Some of the terminology used in this interim rule’s regulatory text and preamble varies from the terms or phrases used in 46 U.S.C. 3306(n). For the purpose of promoting consistency, this interim rule uses language and terms that are already defined

or used in Subchapters K and T when applicable. For example, the Coast Guard uses the phrase “overnight accommodations for passengers” instead of the 46 U.S.C. 3306(n) phrase “overnight passenger accommodations” because “overnight accommodations” is already defined in Subchapters K and T in §§ 114.400 and 175.400 to capture all the relevant characteristics that would qualify a vessel as having an overnight passenger accommodation space. In this interim rule, our existing definition for “overnight accommodation” would apply with the qualifier “for passengers,” to capture only vessels with passenger overnight accommodation spaces and exclude vessels that only have crew overnight accommodation spaces. The existing definition of “overnight accommodation” includes an accommodation space for use by passengers that has one or more berths, including beds or bunks, for passengers to rest for extended periods. Staterooms, cabins, and berthing areas are normally overnight accommodation spaces. Overnight accommodations do not include spaces that contain only seats, including reclining seats. The term used in this interim rule, “Overnight accommodations for passengers,” will include all of these spaces that would normally be considered an overnight accommodation and is consistent with other usages of this phrase in Subchapters K and T. The Coast Guard adopts similar nomenclature changes to terms in 46 U.S.C. 3306(n) to be more technically precise or to align with industry and regulatory usage of the terms. We explain the differences in terminology in the following Discussion of the Rule section.

IV. Discussion of the Rule

In general, the interim rule adds the following requirements to 46 CFR subchapters T and K for vessels (that are not ferries) that operate on a Coastwise or Oceans route or have overnight accommodations for passengers. These vessels must:

1. Install interconnected fire detection systems in all spaces where passengers and crew have routine access, including dining areas, sleeping quarters, and lounges;

2. Install portable fire extinguishers on “existing vessels” so that they meet the same current regulatory requirements for “new vessels”;
3. Develop safe handling procedures for the operation and storage of potentially hazardous items such as rechargeable batteries; and
4. Develop crew firefighting and emergency egress training.

In addition, vessels regulated under Subchapters K and T that are not ferries and have overnight accommodations for passengers must also:

1. Have two unobstructed means of escape that are not located directly above, or dependent on, a berth;
2. Ensure that means of escape arrangements onboard “existing vessels” meet the same current regulatory requirements outlined for “new vessels”;
3. Install and use a monitoring device to ensure the wakefulness of the required night watchmen;
4. Conduct passenger emergency egress drills; and
5. Post a passenger safety bill (that includes an emergency egress plan) in passenger accommodation spaces.

Table 1, “Summary of Changes and 46 CFR Subchapters and Sections Affected,” provides a list of 11 categories of changes, as well as summaries of the changes, and a list of the affected subchapters and sections. After the table, we provide a detailed explanation of the changes in each category.

Table 1: Summary of Changes and 46 CFR Subchapter and Sections Affected		
Category or Equipment	Changes made	Affected 46 CFR Subchapters and Sections

Applicability and Definitions	1. Defines applicable vessels subject to regulatory change 2. Adds definitions for “ <i>Listed</i> ” and for “ <i>Nationally recognized testing laboratory</i> or <i>NRTL</i> ”	Subchapter K: §§ 114.110(e), 114.110(f), and 116.115(c) Subchapter T: §§ 175.110(c), 175.110(d), 177.115(c), 175.400
Editorial	Updates paragraph numbering resulting from insertion of new regulatory text	Subchapter K: §§ 116.500(p),(q), and (r), 118.400(e),(f),(g),(h), and (i), 122.410(a), 122.420(c) and (d), and 122.515(c) Subchapter T: §§ 177.500(o),(p), and (q), 181.450(a)(3) and (4), 185.410(a), and 185.420(c) and (d)
Watchkeeping	Adds requirement for use of night watch monitoring device	Subchapter K: § 122.410(b) Subchapter T: § 185.410(b)
Fire Detection	Updates requirements for type and location of interconnected fire detection systems	Subchapter K: § 118.400(d) Subchapter T: §§ 181.405(c), 181.450(a)(1) and (a)(2), and 181.450(b)
Fire Suppression	Requires affected existing vessels to conform with current fire suppression regulations outlined in §§ 118.500 and 181.500	Subchapter K: § 114.110(e) Subchapter T: § 175.110(c)
Training	Adds training requirement to enhance crews’ firefighting capabilities	Subchapter K: § 122.420(b) Subchapter T: § 185.420(b)
Egress	1. Adds requirements for master to conduct emergency egress drills 2. Adds and updates requirements for posting Passenger Safety Bills	Subchapter K: §§ 122.507 and 122.515 Subchapter T: §§ 185.507 and 185.515

Construction and Arrangement	1. Requires vessels with overnight accommodations for passengers to conform to current regulations for means of escape construction and arrangement 2. Adds requirements preventing berths to aid in means of escape	Subchapter K: §§ 116.115(c) and 116.500(o) Subchapter T: §§ 177.115(c) and 177.500(n)
Hazardous items	Adds requirements for handling, storing, and operating potentially hazardous items	Subchapter K: § 122.364 Subchapter T: § 185.364
Implementation	Outlines implementation schedule for affected operators to implement regulatory requirements	Subchapter K: § 114.110(g) Subchapter T: § 175.110(e)

Applicability and Definitions

The statute defines “covered small passenger vessel,” but, because the term “cover(ed)” is utilized already throughout Subchapters T and K to mean something unrelated, utilizing “covered small passenger vessel” could be misleading. Instead, the interim rule adds statements to the applicability sections in 46 CFR Subchapters K (§ 114.110) and T (§ 175.110) to identify the types of SPVs that must meet the new requirements. These statements of applicability capture all the “covered small passenger vessels” identified in the statute. For each applicability statement, we include a list of the specific regulatory sections that those types of vessels must comply with.

In accordance with the definition of covered SPVs in 46 U.S.C. 3306(n)(5), a vessel to which Subchapter K or T applies, irrespective of build date, must meet the listed general fire safety requirements if it is not a ferry; and (1) has overnight accommodations for passengers; or (2) is operating on a Coastwise or Oceans route. The fire safety requirements in this interim rule are substantively the same in each Subchapter. The general fire safety requirements are listed in §§ 118.400(d), 118.500, 122.364, and 122.420(b) for vessels regulated under Subchapter K and in §§ 181.405, 181.450, 181.500, 185.364, and 185.420(b) for vessels regulated under Subchapter T.

In addition to the general requirements, SPVs that have overnight accommodations for passengers will be required to meet additional fire safety requirements, as mandated by 46 U.S.C. § 3306(n)(3)(B). For Subchapter K, SPVs with overnight accommodations for passengers, irrespective of build date, will be required to meet the additional requirements in revised §§ 116.115(c), 116.500(o), 122.410(b), 122.507, and 122.515. SPVs with overnight accommodations for passengers, irrespective of build date, regulated under Subchapter T will have to meet the additional requirements in revised §§ 177.115(c), 177.500(n), 185.410(b), 185.507, and 185.515. These additional requirements are discussed later in this preamble, and are substantively the same in each subchapter.

Section 3306(n)(5)(B) states that the regulations do not apply to ferries or fishing vessels as those terms are defined in 46 U.S.C. 2101. As such, the new requirements implemented by this interim rule do not apply to ferries or fishing vessels. Under the statutory authorities and this interim rule, SPVs inspected under Subchapters K or T engaged in passenger vessel operations on a fishing excursion does not meet the definition of a “fishing vessel” in 46 U.S.C. 2101.

This interim rule also adds definitions to Subchapter T for the terms “listed” and “Nationally recognized testing laboratory or NRTL.” Both definitions will apply to the new requirements in § 181.450 for interconnected fire detection and alarm systems. In that section, we require an interconnected detection and alarm system to consist of multiple-station smoke detectors listed by an NRTL, or independent laboratory accepted by the Commandant. The definition of “listed” would help the reader identify what types of materials or equipment are acceptable under the regulations. The definition of “NRTL” will help the reader identify the organization as one that is recognized by the Occupational Safety and Health Administration.

Editorial

This interim rule makes several editorial changes to update paragraph numbering from the addition of new regulatory text. All affected paragraphs that have been redesignated by this interim rule are listed in Table 1 of this preamble, “Summary of Changes and 46 CFR Subchapters and Sections Affected.” These editorial changes have no substantive impact on the public or affected owners or operators of SPVs.

Watchkeeping

Existing regulations in 46 CFR 122.410 and 185.410 require an owner of a vessel carrying overnight passengers to have a suitable number of members of the crew patrol throughout the vessel during nighttime. Under 46 U.S.C. 3306(n)(3)(A)(iii), we must issue requirements for the installation and use of monitoring device(s) to ensure the wakefulness of the required night watch for SPVs with overnight accommodations for passengers. Sections 122.410 and 185.410 already require these vessels to have a suitable number of watchmen patrol throughout the vessel during the nighttime. The purpose of having a required night watch is to always have someone monitoring the safety and security of the vessel, who can alert the crew and passengers if there are any emergencies on board, such as fire, flooding, vessel collisions, or other hazards.

In new paragraphs 122.410(b) and 185.410(b), this interim rule requires the following for operators of vessels regulated by Subchapter T or K that have overnight accommodations for passengers. Vessels already in service must submit plans to the cognizant OCMI, in accordance with existing §§ 115.700 or §§ 176.700, for the installation and use of monitoring device(s) to ensure the wakefulness of the watchmen. Vessels with a keel laid date after March 28, 2022, must include plans for the monitoring device(s) within the plan submissions required in §§ 116.202 or 177.202. The Coast Guard will work with the vessel operators to determine a reasonable implementation schedule once the plans are accepted. This plan submission requirement will be effective

90 days after publication of this interim rule. The main goal for requiring use and installation of the monitoring device is to ensure the required watchmen stay awake while monitoring the vessel for emergencies.

The monitoring devices must also satisfy the following three requirements, which we have incorporated into the regulatory text. First, the monitoring devices must alert the crew in the case of an unresponsive watchstander. This requirement will ensure that, if a watchman becomes unresponsive, the crew will be alerted to check on the unresponsive watchman and provide a continuous safety watch throughout the night. Second, the monitoring device must remain operable throughout the nighttime watch, to coincide with the required patrol in §§ 122.410(a) and 185.410(a), which requires “watchmen patrol throughout the vessel during the nighttime.” Third, the monitoring device(s) must be arranged to ensure proper coverage of the passenger accommodation spaces, common areas, and spaces with potential fire hazards. We are requiring the device(s) be arranged with proper coverage around the vessel to ensure that those assigned with a watchkeeping responsibility remain alert while conducting frequent rounds of the vessel.

Per existing §§ 115.800(a) and 176.800(a), “Inspection standards”, the cognizant OCMI may inspect the vessel’s monitoring devices for compliance with the subchapter and, where the standard is not set by these updated regulations, in accordance with standards acceptable to the cognizant OCMI as good marine practice.

For implementing the monitoring device(s) requirement, we considered requiring systems similar to the International Electrotechnical Commission standard, IEC 62616, “Maritime navigation and radio communication equipment and systems – Bridge navigational watch alarm system (BNWAS).” The IEC 62616 standard specifies the minimum performance requirements, technical characteristics, methods of testing, and required test results for a BNWAS, as required by the International Convention for the Safety of Life at Sea (SOLAS). SOLAS regulation V/19.2.2.3 requires that BNWAS

must be in operation whenever the ship is underway at sea. The BNWAS monitors bridge activity and detects operator disability that could lead to marine accidents. According to the IEC 62616 standard, the system monitors the awareness of the watchman. If they become incapable of performing their watch duties, a series of indications and alarms alert first the watchman and then, if they are not responding, alert the Master or another qualified watchman. Under IEC 62616, the BNWAS may be integrated into other equipment, such as radar or Electronic Chart Display and Information System, etc. A BNWAS is just one example of a device that would satisfy the requirements of §§ 122.410(b) and 185.410(b). Further, systems such as a personnel alarm, as required by 46 CFR 62.50-20(b) for vessels regulated under Subchapter F, would also be considered as meeting the requirements of §§ 122.410(b) and 185.410(b). These two systems are just examples, and are not intended as an all-inclusive list of devices that could satisfy the requirements of §§ 122.410(b) and 185.410(b). However, for the purpose of this interim rule, we are initially allowing operators the flexibility to choose a system that works for them in meeting the requirements set forth in 122.410(b) and 185.410(b), subject to cognizant OCMI or Marine Safety Center approval. We welcome comments providing information as to the types of wakefulness monitoring systems or procedures that are preferable or already in use by these vessels, if any.

Fire Detection

Title 46 CFR section 181.450(c) lists the requirements for independent modular smoke detecting units in overnight accommodation spaces on a vessel. To align with the requirements of 46 U.S.C. 3306(n)(3)(A)(ii), vessels regulated by Subchapter T or K that have overnight accommodations for passengers or operate on a Coastwise or Oceans route, irrespective of build date, must now have interconnected fire detection systems.

The text in 46 U.S.C. 3306(b)(3)(A)(ii) requires interconnected fire detection equipment “in all areas on board the vessel where passengers and crew have access,

including dining areas, sleeping quarters, and lounges.” The Coast Guard uses the term “interconnected fire detection systems” because it is not likely or logical that the fire detection equipment will be interconnected; it is the system that is interconnected. This is a nomenclature change we made to be more precise with the language used in the regulations. We have interpreted the statutory language, “all areas where passengers and crew have access” to include enclosed spaces such as accommodation spaces and machinery spaces that would be routinely occupied by passengers or crew. While the statute says, “all areas on board the vessel where passengers and crew have access...” the Coast Guard does not interpret this to mean only spaces where crew and passengers both have access; we interpret this to mean spaces where either have access. Otherwise, machinery spaces and crew kitchens with heat sources and fire risks would not be included in the requirement. That interpretation would be inconsistent with the intent of the 2020 CGAA, to have the interconnected fire detection systems in all areas onboard.

This interim rule does not require interconnected fire detection systems on weatherdecks because fire detection equipment is not effective above decks where there may be no ceilings and smoke disperses before it can be detected. In addition, we do not include small spaces that open to spaces with fire detection equipment, such as closets, in the meaning of “areas where passengers and crew have routine access,” where it is impractical or there are no potential heat sources to justify requiring an interconnected fire detection system therein.

The regulations in §§ 118.400(d) and 181.405(c) will now require an interconnected fire detection system that meets the existing requirements in § 181.450 in all enclosed areas to which passengers and crew have routine access, including accommodation spaces and machinery spaces. Now that the statute requires all SPV fire detection systems to be interconnected, we changed the type of the detection system described in § 181.450 from “Independent modular smoke detecting units” to

“Interconnected fire detection system”. Section 181.450 will continue to require that the fire detection system used by the vessel must be listed by an NRTL or independent laboratory, as type-approved to meet Underwriter Laboratories (UL) standard UL 217, “Single and Multiple Station Smoke Detectors,” already incorporated by reference in § 175.600 and 181.450.

In Subchapter K’s interconnected fire detection system requirements, in new § 118.400(d), we opt to cross-reference the existing Subchapter T standards in § 181.450 that apply to interconnected fire detection systems, rather than duplicating the standards in Subchapter K. All SPVs that either operate on a Coastwise or Oceans route or have overnight accommodations for passengers, irrespective of build date, must have an interconnected fire detection system that meets the requirements in § 181.450.

Fire Suppression

Existing §§ 118.500 and 181.500 list the requirements for number, type, and location of portable fire extinguishers applicable to “new vessels” (defined in §§ 114.400 and 175.400). These sections list the minimum number of fire extinguishers a vessel must have and also indicate that the Officer in Charge, Marine Inspection (OCMI) may require more than the minimum number listed. Paragraph (n)(3)(A)(vii) of 46 U.S.C. 3306 requires the Coast Guard to issue regulations for increased fire suppression systems (including additional fire extinguishers) in unmanned areas with machinery, or areas with other potential heat sources. Sections 118.115 and 181.115 previously allowed “existing vessels” (defined in §§ 114.400 and 175.400) to comply with the fire protection regulations that were applicable to the vessel on March 10, 1996.

This interim rule requires all vessels regulated by Subchapter T or K that have overnight accommodations for passengers or are operating on a Coastwise or Oceans route, regardless of build date, to comply with the portable fire extinguisher regulations in §§ 118.500 or 181.500. The new applicability paragraphs §§ 114.110(e) and

175.110(c) indicate the specific regulations that these SPVs must meet, including the fire extinguisher regulations in §§ 118.500 or 181.500. These regulations were previously only applicable to “new vessels.” This change will directly affect “existing vessels” that previously complied with portable fire extinguisher regulations applicable to the vessel on March 10, 1996, but do not meet the regulation standards for “new vessels.” All SPVs regulated under Subchapters T and K that have overnight accommodations for passengers or are operating on a Coastwise or Oceans route will be required to comply with the portable fire extinguisher minimum numbers and type requirements in §§ 118.500 or 181.500 no later than 1 year after publication of this interim rule. The Coast Guard invites public comment to determine if requirements for additional portable fire extinguishers beyond what is currently required in §§ 118.500 or 181.500 should be required to facilitate proper fire protection.

Additionally, these SPVs will be subject to the cognizant OCMI’s discretion in requiring additional portable fire extinguishers. In requiring additional portable fire extinguishers, the OCMI considers multiple factors, including such vessel characteristics as the size, passenger capacity, egress plans, and layout. This OCMI discretion already exists in 118.500(a) and 181.500(a). Therefore, we expect OCMI’s to use the same criteria they apply to new vessels to existing vessels in determining an acceptable minimum amount of fire extinguishers in the spaces listed. The fire extinguisher requirements in §§ 118.500 and 181.500 cover all types of areas on the vessel, including minimum fire extinguisher requirements for unmanned areas with machinery, and areas with potential heat sources, as required by the statute.

In this interim rule, the Coast Guard considered requiring fixed firefighting systems to address the requirements of 46 U.S.C. 3306(n), but decided instead to make the standards for the number, type, and location of portable extinguishers onboard new vessels applicable to both new and existing vessels. When the Coast Guard revised the

regulations for small passenger vessels in 1996, the requirements for fixed fire suppression systems were retroactively applied to existing vessels of combustible construction (See 61 FR 864, Jan. 10, 1996). These higher risk vessels have been required to install fixed suppression systems since March 1999. However, under the 1996 regulation, existing vessels were not required to comply with requirements for the number, type, and location of portable extinguishers. At present, there is insufficient data to justify requiring the additional cost and complexity of fixed systems on existing vessels of non-combustible construction. Instead, under the interim rule, the Coast Guard is requiring existing vessels to meet the current requirements for portable fire extinguishers, which meets the intent of 46 U.S.C. 3306(n). At the same time, the interim final rule will allow for public comment regarding requirements for portable and fixed fire suppression systems onboard these vessels.

Training

Currently, SPVs are required to conduct crew firefighting drills and training in accordance with §§ 122.524 and 185.524. Per the mandate in 46 U.S.C. 3306(n)(3)(A)(i), this interim rule adds additional crew firefighting training requirements for vessels regulated by Subchapter T or K that have overnight accommodations for passengers or are operating on a Coastwise or Oceans route. These additional training requirements will promote crew member firefighting proficiency, while requiring regular egress training for vessel crew members.

In new paragraphs 122.420(b) and 185.420(b), this interim rule adds required crew training in the use and location of firefighting equipment and general firefighting knowledge, including a list of knowledge and training aspects that must be covered. Additionally, this interim rule adds a requirement to conduct emergency egress training for all members of the crew, to be conducted at least monthly while such members are employed on board the vessel, and each time someone joins the crew.

The new provisions in §§ 122.420(b) and 185.420(b) will also cross-reference the existing requirements for the vessel master or operator to conduct the firefighting drills and training in §§ 122.524 and 185.524, respectively, including identifying fire location and fire type. The additional general firefighting knowledge requirements in §§ 122.524 and 185.524 already apply to all vessels regulated under Subchapter K and Subchapter T, respectively. The purpose of adding these cross references to §§ 122.420(b) and 185.420(b) is to clearly specify in one place all the firefighting crew training requirements for SPVs that have overnight accommodations for passengers or are operating on a Coastwise or Oceans route.

Egress

46 U.S.C. 3306(n)(3)(A)(vii) requires regulations for conducting passenger emergency egress drills prior to the vessel beginning each excursion. New §§ 122.507 and 185.507 of this interim rule require owners or operators of SPVs that have overnight accommodations for passengers to conduct emergency egress drills with the new passengers prior to the vessel getting underway. If the vessel does not get underway, and if passengers do not remain overnight on the vessel, the vessel operator would not be required to complete the passenger emergency egress drills. The statute requires the egress drills be performed before the vessel begins an “excursion,” which we have interpreted to mean anytime a vessel gets underway, or anytime passengers remain overnight on the vessel. Per this definition, a vessel operator that has passengers remain onboard overnight is required to conduct the passenger emergency egress drills, regardless if the vessel leaves the pier. Where vessels with overnight passengers remain pierside for various reasons, such as inclement weather or as part of the normal practice, emergencies can still happen on these excursions. Requiring the emergency egress drills for vessels with overnight passengers that remain pierside supports Congress’s safety intent of performing the passenger egress drills on these vessels.

For passengers assigned to an accommodation space, this interim rule requires the emergency egress drills must be performed from that assigned space. If passengers are not assigned an accommodation space, the emergency egress drill must be performed from another reasonable accommodation space, which the master of the vessel will have discretion to choose. We included this contingency for when passengers are not assigned accommodation space for situations where the vessel has overnight accommodation space for passengers but is not getting underway with passengers. In these cases, the master of the vessel is still required to perform an emergency egress drill with the passengers because the 46 U.S.C. 3306(n)(5) definition of “covered small passenger vessel” applies to any SPV that has overnight passenger accommodations on the vessel and does not distinguish whether or not they are actually used overnight by passengers.

Section 3306(n)(3)(A)(vii) requires the crew to conduct an egress drill from all areas where passengers have access. However, strict application of the statute would lead to an overly redundant and burdensome process, with multiple drills being conducted from every accessible space on the vessel, and only a nominal increase in safety. Instead, we will require passengers to undergo one emergency egress drill from their assigned accommodation space, or, if not assigned an accommodation space, from another reasonable accommodation space chosen by the vessel master.

The emergency egress drills are a supplement to any applicable passenger safety requirements under 46 CFR parts 122 and 185 or SOLAS. In some cases, the emergency egress drill can be done concurrently with other required safety drills, as long as the passengers perform the emergency egress drill starting from the passenger’s assigned accommodation spaces before beginning an excursion with new passengers. Most relevant, §§ 122.506(e) and 185.506(e) require SPVs on a voyage of more than 24 hours duration request that passengers don life jackets and go to the appropriate embarkation station during the safety orientation. A vessel operator could satisfy §§ 122.506(e) or

185.506(e) and the new emergency egress drill requirement by performing the emergency egress drill from the passenger's assigned overnight accommodation space, meeting at the embarkation station, and donning life jackets. This emergency egress drill must be conducted before the vessel begins an excursion with new passengers.

Paragraphs 3306(n)(3)(A)(viii) & (B) require providing passengers a copy of the emergency egress plan for the vessel on vessels that have overnight accommodation spaces for passengers. In Subchapters K and T, the Coast Guard refers to these plans as passenger safety bills. This interim rule requires passenger safety bills to be posted in each cabin or stateroom, and in passenger accommodation spaces. Passenger safety bills must include the following information: 1) the embarkation station and the number and location of survival craft to which each passenger is assigned, if applicable; 2) the fire and emergency signal and the abandon ship signal; 3) the essential action that must be taken in an emergency; and 4) the location of immersion suits and illustrated instructions on the method of donning the suits, if immersion suits are provided. The Coast Guard determined that including this emergency egress information will increase the passenger safety bill's usefulness to passengers during an emergency.

These passenger safety bill requirements will be in § 122.515 and new § 185.515. Previously, passenger safety bill requirements in § 122.515 only applied to vessels more than 65 feet with more than 49 overnight passengers. The requirements in § 122.515 will now apply to all vessels regulated under Subchapter K with overnight accommodations spaces for passengers, regardless of length of vessel or number of overnight passengers.

The Coast Guard considered requiring masters of affected vessels to distribute copies of passenger safety bills to passengers. We did not choose this option as it is unrealistic to expect passengers to have the safety bills in their possession at all times in case of an emergency. Posting the passenger safety bills in accommodation spaces and

staterooms ensures the emergency egress plans are available for viewing from multiple places on the vessel in an emergency.

Construction and Arrangement

The regulations for construction and arrangement in 46 CFR parts 116 and 175 are currently applicable to “new vessels” (defined in §§ 114.400 and 175.400). “Existing vessels” (also defined in §§ 114.400 and 175.400) have the opportunity to comply with regulations that were applicable on March 10, 1996. Section 3306(n)(3)(A)(v) of 46 U.S.C. requires SPVs with overnight accommodations for passengers to have two independent avenues of escape from general areas accessible to passengers. New applicability provisions in §§ 116.115(c) and 177.115(c) will require vessels regulated by Subchapter T or K that have overnight accommodations for passengers, regardless of build date, to comply with the requirements for means of escape in §§ 116.500 and 177.500. Requiring compliance with §§ 116.500 and 177.500 will ensure that all existing vessels with overnight accommodations for passengers will maintain at least two independent means of escape that allow for free and unobstructed egress from any point in a vessel to an embarkation station for SPVs regulated under Subchapter T, or to an embarkation station or area of refuge for SPVs regulated under Subchapter K.

Specifically, §§ 116.500(b) and 177.500(b) require two means of escape that must be widely separated and, if possible, at opposite ends or sides of the space to minimize the possibility of one incident blocking both escapes. Although the terms “if possible” and “minimize the possibility” provide a level of ambiguity to the regulations, the notion of having two means of escape widely separated at opposite ends of the space, where a blockage of one will not result in the blockage of both escapes, is enforced strictly. The term “if possible” in relation to placement of the means of escape provides a level of discretion to the Coast Guard to allow for the two independent means of escape to exist in the same space without being on absolute opposite ends of the space. However, the

Coast Guard will ensure, in its judgement, that the means of escape are placed as widely apart as possible to minimize the possibility that one incident could block both means of escape. Current regulations under Subchapter T define a “means of escape” as “a continuous and unobstructed way of exit travel from any point in a vessel to an embarkation station.” For vessels inspected under Subchapter K, a “means of escape” is “a continuous and unobstructed way of exit travel from any point in a vessel to an embarkation station or area of refuge.” (*See* 46 CFR 114.400 and 175.400). Regardless of how widely spaced the means of escape are from each other in a single space, the Coast Guard will ensure there are two independent means of escape that prevent one incident blocking both means of escape.

Additionally, this interim rule will add a new provision prohibiting avenues of escape that are located directly above, or dependent on, a berth for vessels with overnight accommodations for passengers. Section 3306(n)(3)(A)(v)(III) mandates that the required two independent avenues of escape and the door, hatch, or scuttle are not located directly above or dependent on a berth. This mandated requirement is implemented in revised §§ 116.500(o) and 177.500(n) only for vessels with overnight accommodations for passengers.

Hazardous Items

Under 46 U.S.C. 3306(n)(3)(A)(vi), all vessels regulated by Subchapters K or T that have overnight accommodations for passengers, or are operating on a Coastwise or Oceans route, will be required to take extra precautions in handling, storing, and operating flammable items such as rechargeable batteries.³ New §§ 122.364 and 185.364 require potentially hazardous items used for commercial purposes to be handled, stored, and operated in a way that mitigates the risk of hazardous conditions. In addition, operators should read the Coast Guard’s Office of Commercial Vessel Compliance (CG-

³ As required by 46 U.S.C. 3306(n)(3)(A)(vi).

CVC) Policy Letter 20-03, “Carriage of Lithium-Ion Batteries on Small Passenger Vessels,” issued on October 29, 2020 (or any subsequent versions), to better understand how to identify signs of damage to lithium ion batteries, how to extinguish small lithium-ion battery fires, and how to avoid unsafe practices or improper installations onboard.⁴ A copy of the Policy Letter 20-03 will be posted to the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

Implementation

The Coast Guard considered implementation schedules while balancing expected or potential impacts and vessel and passenger safety concerns. In the Subchapters K and T applicability sections, 114.110(g) and 175.110(e), we list the dates of when each regulatory requirement must be implemented. These dates are the earliest that the Coast Guard would enforce the requirements. We opt for a staggered implementation schedule, where the more extensive changes are given more time to implement, and the simpler changes are given 90 days to implement.

The new requirements for means of escape in §§ 116.115(c), 116.500(o), 177.115(c), and 177.500(n) are deemed the most logistically challenging. Relevant vessel owners could expect to allocate time and resources for making appropriate vessel conversions. Vessel owners may need to schedule a drydocking period with a boatyard to conduct conversions necessary to meet the means of escape requirements in these sections. Therefore, we allow vessel owners 2 years to implement those requirements; that is, by December 27, 2023.

The regulatory changes for fire protection equipment in 46 CFR parts 118 and 181 will require equipment to be procured and installed onboard. The Coast Guard

⁴ A copy is available in the docket for this interim rule and at the following website: https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/CG-5PC/CG-CVC/Policy%20Letters/2020/CVC%20PL%2020-03_CARRIAGE%20OF%20LITHIUM-ION%20BATTERIES%20ON%20SMALL%20PASSENGER%20VESSELS.pdf

recognizes that required equipment may not be readily available, so we have allowed vessel owners 1 year, until December 27, 2022, to implement the requirements in §§ 118.400(d), 118.500, 181.405, 181.450, and 181.500.

Vessel owners will have 90 days, until March 28, 2022, to implement the remaining requirements of this interim rule. These requirements include those listed in §§ 122.364, 122.420(b), 116.115(c), 122.410(b), 122.507, 122.515, 185.364, 185.410(b), 185.420(b), 185.507, and 185.515.

Lastly, §§ 122.507(b), 185.507(b), and 185.515(a), and the addition of a paragraph to § 122.515, which contain collections of information that have not yet been approved by OMB, are delayed indefinitely. These sections are related to the requirements for posting a passenger safety bill in accommodation spaces, recording passenger egress drills, and recording crew firefighting and emergency egress training. The Coast Guard will publish a document in the Federal Register announcing the effective dates of those sections if OMB approves the new collections of information.

V. Regulatory Analyses

Paragraph (n)(4)(B) of 46 U.S.C. 3306 exempts the requirements in this interim rule from the economic analysis requirements in the Regulatory Flexibility Act and Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review). The Office of Management and Budget (OMB) has not reviewed this rule under section 3(f) of Executive Order 12866 because this interim rule is exempt from the requirements of Executive Order 12866.

This interim rule will impose a cost to the SPV industry, much of which is made up of small businesses. While the Coast Guard did not conduct a benefit cost analysis, the Coast Guard recognizes that there may be impacts to small business. There will be a cost burden to update fire and smoke detection equipment and to add additional independent avenues of escape (for instance, egress) on many SPVs, with a potential

associated loss of passenger capacity on some SPVs. Additional costs will be associated with crew training and competency, passenger egress drills, monitoring devices to ensure wakefulness of the night watch, and flammable item storage. The Coast Guard will consider all cost-related public comments at the final rule phase and not for this interim final rule.

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

B. Collection of Information

This interim rule calls for a change to an existing collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. The relevant collection of information is titled “Small Passenger Vessels—Title 46 CFR Subchapters K and T,” which is assigned OMB Control Number 1625-0057. The Coast Guard uses the information in this collection to ensure compliance with Subchapter K and T regulations

for the safety, design, construction, alteration, repair and operation of small passenger vessels.

As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Small Passenger Vessels—Title 46 CFR Subchapters K and T.

OMB Control Number: 1625-0057

Summary of the Collection of Information: The information requirements are necessary for the proper administration and enforcement of the safety of applicable SPVs affected by this interim rule. The new requirements of this interim rule affect SPVs (under 100 gross tons) that carry more than six passengers and have overnight accommodations for passengers or operate on a coastwise or oceans route. The Coast Guard will require the operators of these vessels to: (1) post copies of the passenger safety bill for all passengers in all passenger staterooms and cabins and passenger accommodation spaces; (2) log the occurrence of passenger emergency egress drills; and (3) log the occurrence of crew marine firefighting and emergency egress training. The interim rule requirement for vessel operators of SPVs with overnight accommodations for passengers to submit plans to the USCG for use and installation of night watchmen monitoring devices would also increase the burden estimates for the existing collections covered by plan approval sections §§ [115.700](#), [116.202](#), [176.700](#) and [177.202](#).

Need for Information: Under the authority of 46 U.S.C. 3305 and 3306, the Coast Guard is prescribing regulations for the design, construction, alteration, repair and operation of SPVs to secure the safety of individuals and property on board. The Coast

Guard must issue interim fire safety requirements for these vessels per 46 U.S.C. 3306(n), requiring masters of SPVs to provide passengers copies of emergency egress plans and to conduct passenger emergency egress drills before every excursion, and conduct crew marine firefighting and emergency egress trainings monthly and every time a new crewmember joins the crew. Plan approvals for the night watchmen monitoring devices is needed to ensure the devices will perform adequately to ensure the wakefulness of the night watch.

Proposed Use of Information: The Coast Guard is requiring vessel operators to post copies of the passenger safety bill in all passenger staterooms and passenger accommodation spaces for the passengers' access and use before and during an emergency. Additionally, the requirement for vessel operators to log the occurrence of passenger emergency egress drills and crew firefighting and emergency egress training will be used by the Coast Guard to inspect vessel operators' compliance with the requirements. The plans for the night watch monitoring devices will be used to ensure compliance with the requirement to installation and use of the devices meet the minimum standards in the regulations.

Description of the Respondents: Owners and operators of SPVs (under 100 gross tons) that carry more than six passengers with overnight accommodations for passengers.

Number of Respondents: The current OMB-approved number of respondents remains unchanged.

Frequency of Response: The log entry for passenger egress drills must be completed prior to every excursion. The log entry for the crew firefighting and emergency egress training is expected to occur once a month and every time a new crew member joins the crew. The posting of the passenger bill will be a one-time posting requirement per vessel. The plan submission for the night watch monitoring devices will be a one-time submission requirement per vessel.

Burden of Response: The burden of response varies per activity. The log entry at the completion of a passenger egress drill takes 2 minutes to complete prior to every excursion. The log entry at the completion of the crew firefighting training takes 2 minutes to complete and is expected to occur an average of 18 times per year, per applicable vessel. The posting of a passenger safety bill takes 1 minute per activity with 10 activities per Subchapter K vessel and 6 activities per Subchapter T vessel, and we expect each vessel to post passenger safety bills only once. The submission of a vessel plan takes 30 minutes per activity with an estimated 370 submissions.

Estimate of Total Annual Burden: The crew emergency egress training will increase the annual burden by 676 hours. The new passenger egress drills will increase the annual burden by 611 hours. The posting of additional passenger safety bills will increase the annual burden by 46 hours. The one-time submission of the night watch monitoring device plan submission will increase the annual burden by 185 hours. This rulemaking will increase the estimated annual burden by 1,518 hours.

As required by 44 U.S.C. 3507(d) and 5 CFR 1320.10, we will submit a copy of this interim rule to OMB for its review of the collection of information.

We are soliciting comments on the revisions to the collection of information. Comments may be submitted in accordance with the **Public Participation and Request for Comments** section in this preamble.

You are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has not yet completed its review of this updated collection. Therefore, we are not making §§ 122.507(b), a new paragraph in 122.515, 185.507(b), and 185.515(a) effective until OMB completes its action on our revised information collection request. We will publish a **Federal Register** document describing OMB's action and, if OMB grants approval, notifying you when §§ 122.507(b), the new paragraph in 122.515, 185.507(b), and 185.515(a) take effect.

C. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this interim rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that all of the categories covered in 46 U.S.C. 3306, (design, construction, alteration, repair, maintenance, operation, equipping), in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. *See* the Supreme Court's decision in *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (2000). This interim rule implements mandatory fire safety requirements for SPVs prescribed by 46 U.S.C. 3306(n). Therefore, because the States may not regulate within these categories, this rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please call or email the

person listed in the FOR FURTHER INFORMATION CONTACT section of this preamble.

D. Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. The Coast Guard discusses the requirements and some of the implications of this interim rule elsewhere in the preamble. This interim rule is exempt from economic analysis requirements in the Regulatory Flexibility Act and Executive Orders 12866 and 13563. Hence, this rulemaking does not include a regulatory analysis. Additionally, the interim requirements implemented by this rule are required by statute and are not discretionary.

E. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

F. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

G. Protection of Children

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule will not create an environmental risk to health or risk to safety that might disproportionately affect children.

H. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

I. Energy Effects

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a “significant energy action” under that order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

J. Technical Standards and Incorporation by Reference

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule uses one voluntary consensus standard, UL 217, “Single and Multiple Station Smoke Detectors.” The sections that reference this standard and the locations where this standard is available are listed in 46 CFR 175.600 and 181.450(a)(1). UL 217 is a standard for type-approved multiple-station smoke detectors, and is already incorporated by reference in these sections.

The Director of the Federal Register has approved the material in 46 CFR 181.450(a)(1) for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the sources listed in 46 CFR 175.600.

Consistent with 1 CFR part 51 incorporation by reference provisions, this material is reasonably available. Interested persons have access to it through their normal course of business, may purchase it from the organization identified in 46 CFR 117.600, or may view a copy by means we have identified in that section.

K. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble. This rule is categorically excluded under paragraph L56 and L57 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev 1. Paragraph L56 pertains to regulations concerning the training, qualifying, licensing, and disciplining of maritime personnel and L57 pertains to regulations concerning manning, documentation, admeasurement, inspection, and equipping of vessels. This rule involves adding requirements such as fire detection and suppression systems, avenues of escape, egress drills, marine firefighting training, and the handling of flammable items such as rechargeable batteries.

VI. Public Participation and Request for Comments

The Coast Guard views public participation as essential to effective rulemaking, and will consider all comments and material received on this interim rule during the comment period. Your comment can help shape fire safety final rules for SPVs called for by 46 U.S.C. 3306(n). If you submit a comment, please include the docket number for this rule, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2021-0306 in the search box and click "Search." Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this interim rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this interim rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. We review all comments received, but we will only post comments that address the topic of the interim rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Public meeting. We are not planning to hold a public meeting but will consider doing so if we determine from public comments that a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

List of Subjects in 46 CFR Parts 114, 116, 118, 122, 175, 177, 181, and 185.

46 CFR Part 114

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 116

Fire prevention, Marine safety, Passenger vessel, Seamen.

46 CFR Part 118

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 122

Marine safety, Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 175

Marine safety, Incorporation by reference, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 177

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 181

Fire prevention, Incorporation by Reference, Marine safety, Passenger vessels.

46 CFR Part 185.

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 114, 116, 118, 122, 175, 177, 181, and 185 as follows:

TITLE 46 – SHIPPING

PART 114 – GENERAL PROVISIONS

1. The authority citation for part 114 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; Pub. L. 103-206, 107 Stat. 2439; 49 U.S.C. App. 1804; DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(a); § 114.900 also issued under 44 U.S.C. 3507.

2. Amend § 114.110 by adding paragraphs (e) through (g) to read as follows:

§114.110 General applicability

* * * * *

(e) Irrespective of build date, a vessel to which this subchapter applies must meet 46 CFR 118.400(d), 118.500, 122.364, and 122.420(b) if it is not a ferry, and if it --

(1) Has overnight accommodations for passengers; or

(2) Is operating on a Coastwise or Oceans route.

(f) Irrespective of build date, a vessel to which this subchapter applies must meet 46 CFR 116.115(c), 116.500(o), 122.410(b), 122.507, and 122.515 if it is not a ferry, and has overnight accommodations for passengers.

(g) The requirements outlined in paragraphs (e) and (f) of this section must be met no later than March 28, 2022, except for:

(1) The requirements to implement 46 CFR 118.400(c) and 118.500r, which must be met no later than December 27, 2022; and

(2) The requirements to implement 46 CFR 116.115(c) and 116.500(o), which must be met no later than December 27, 2023.

PART 116 – CONSTRUCTION AND ARRANGEMENT

3. The authority citation for part 116 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(a).

4. Amend § 116.115 by adding paragraph (c) to read as follows:

§ 116.115 Applicability to existing vessels.

* * * * *

(c) Vessels described by 46 CFR 114.110(f) must comply with the regulations in § 116.500.

5. Amend § 116.500 as follows:

- a. Redesignate paragraphs (o) through (q) as (p) through (r), respectively; and
- b. Add new paragraph (o).

The addition reads as follows:

§ 116.500 Means of escape.

* * * * *

(o) Vessels described by 46 CFR 114.110(f) must ensure that the two means of escape required in paragraph (b) of this section are unobstructed and not located directly above, or dependent on, a berth.

* * * * *

PART 118 – FIRE PROTECTION EQUIPMENT

6. The authority citation for part 118 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(a).

7. Amend § 118.400 as follows:

- a. Redesignate paragraphs (d) through (h) as (e) through (i), respectively; and
- b. Add new paragraph (d).

The addition reads as follows:

§ 118.400 Where required.

* * * * *

(d) Vessels described by 46 CFR 114.110(e) must have an interconnected fire detection system in compliance with 46 CFR 181.450 installed in all enclosed areas where passengers and crew have routine access, including accommodation spaces and machinery spaces.

* * * * *

PART 122 – OPERATIONS

8. The authority citation for part 122 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(a).

9. Add § 122.364 to subpart C to read as follows:

§ 122.364 Use of potentially hazardous items for commercial purposes.

On vessels described by 46 CFR 114.110(e), flammable items not covered by the regulations of this subchapter, such as rechargeable batteries, including lithium ion batteries utilized for commercial purposes, must be handled, stored, and operated in a way that mitigates the risk of hazardous conditions.

10. Amend § 122.410 as follows:

- a. Redesignate the introductory text as paragraph (a); and
- b. Add paragraph (b).

The addition reads as follows:

§ 122.410 Watchmen.

* * * * *

(b) Vessels described by 46 CFR 114.110(f) must submit plans to the cognizant OCMI, in accordance with 46 CFR 115.700, for the installation and use of monitoring device(s) to ensure the wakefulness of the watchmen required in paragraph (a) of this section. Vessels with a keel laid date after March 28, 2022, must include plans for the monitoring device(s) within the plan submissions required in 46 CFR 116.202. The Coast Guard will work with the vessel operators to determine a reasonable implementation schedule once the plans are accepted. The monitoring device(s) must:

- (1) Ensure the wakefulness of the crew in the event that the watchman required in paragraph (a) of this section is unresponsive;
- (2) Remain operable during the nighttime watch; and

(3) Be arranged to ensure proper coverage of the passenger accommodation spaces, common areas, and spaces with potential fire hazards.

11. Amend § 122.420 as follows:

a. Redesignate paragraphs (b) and (c) as paragraphs (c) and (d);

b. Add new paragraph (b); and

c. In newly redesignated paragraph (c):

i. Add the text “, monthly,” after the word “initial”; and

ii. Remove the text “paragraph (a)” and add in its place the text “paragraphs (a) and (b)”.

The addition reads as follows:

§ 122.420 Crew training.

* * * * *

(b) For a vessel described by 46 CFR 114.100(e), the training program in paragraph (a) of this section must address firefighting proficiency and must include, but need not be limited to –

(1) Training in the use and location of firefighting equipment and general firefighting knowledge, including:

(i) Location of firefighting appliances and emergency escape routes;

(ii) Types and sources of ignition;

(iii) Flammable materials, fire hazards and spread of fire;

(iv) The need for constant vigilance;

(v) Actions to be taken on board;

(vi) Fire and smoke detection and automatic systems on board; and

(vii) Classification of fire and applicable extinguishing agents.

(2) The drills required by § 122.524, including fire location and fire type; and

(3) Emergency egress training for each member of the crew, to occur for all members of the crew –

(i) At least monthly while such members are employed on board the vessels; and

(ii) Each time a crew member joins the crew of such vessel.

* * * * *

12. Add § 122.507 to read as follows:

§ 122.507 Passenger egress drills.

(a) The master of a vessel described by 46 CFR 114.110(f) must conduct passenger emergency egress drills from the passengers' assigned overnight accommodation spaces prior to beginning an excursion with new passengers.

(1) If the passengers are not assigned an overnight accommodation space, the master of a vessel described by 46 CFR 114.110(f) must conduct passenger emergency egress drills from an accommodation space prior to beginning an excursion with new passengers.

(2) For the purposes of this section, excursion includes anytime the vessel gets underway, or anytime passengers remain overnight on the vessel.

(b) [Reserved]

13. Delayed indefinitely, amend § 122.507 by adding paragraph (b) to read as follows:

§ 122.507 Passenger egress drills.

* * * * *

(b) Passenger egress drills must be logged or otherwise documented for review by the Coast Guard upon request. The drill entry must include the following information:

(1) Date and time of the drill; and

(2) Number of drill participants.

14. Delayed indefinitely, amend § 122.515 as follows:

a. Redesignate paragraph (b) as paragraph (c); and

b. Add new paragraph (b).

The addition reads as follows:

§ 122.515 Passenger safety bill.

* * * * *

(b) For vessels described by 46 CFR 114.110(f), the master must post a passenger safety bill in each passenger cabin or stateroom and in passenger accommodation spaces.

* * * * *

PART 175 - GENERAL PROVISIONS

15. The authority citation for part 175 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3205, 3306, 3703; Pub. L. 103-206, 107 Stat. 2439; 49 U.S.C. App. 1804; DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(a); § 175.900 also issued under 44 U.S.C. 3507.

16. Amend § 175.110 by adding paragraphs (c) through (e) to read as follows:

§ 175.110 General applicability.

* * * * *

(c) Irrespective of build date, a vessel to which this subchapter applies must meet 46 CFR 181.405, 181.450, 181.500, 185.364, and 185.420(b), if it is not a ferry, and if it—

(1) Has overnight accommodations for passengers; or

(2) Is operating on a Coastwise or Oceans route.

(d) Irrespective of build date, a vessel to which this subchapter applies must meet 46 CFR 177.115(c), 177.500(n), 185.410(b), 185.507, and 185.515, if it is not a ferry and has overnight accommodations for passengers.

(e) The requirements outlined in paragraphs (c) and (d) of this section must be met no later than March 28, 2022, except for:

(1) The requirements to implement 46 CFR 181.405, 181.450, and 181.500, which must be met no later than December 27, 2022; and

(2) The requirements to implement 46 CFR 177.115(c) and 177.500(n), which must be met no later than December 27, 2023.

17. Amend § 175.400 by adding in alphabetical order definitions for “Listed” and “Nationally recognized testing laboratory or NRTL” to read as follows:

§ 175.400 Definitions of terms used in this subchapter.

* * * * *

Listed means equipment or materials included in a list published by an organization that is an accepted independent laboratory, as defined in 46 CFR 159.010, or a nationally recognized testing laboratory, as set forth in 29 CFR 1910.7, whose listing states that either the equipment or material meets appropriate designated standards.

* * * * *

Nationally recognized testing laboratory or NRTL means an organization that the Occupational Safety and Health Administration (OSHA) has recognized as meeting the requirements in 29 CFR 1910.7.

* * * * *

PART 177 - CONSTRUCTION AND ARRANGEMENT

18. The authority citation for part 177 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(a).

19. Amend § 177.115 by adding paragraph (c) to read as follows:

§ 177.115 Applicability to existing vessels.

* * * * *

(c) Vessels described by 46 CFR 175.110(d) must comply with the regulations in § 177.500.

20. Amend § 177.500 as follows:

- a. Redesignate paragraphs (n) through (p) as paragraphs (o) through (q), respectively; and
- b. Add new paragraph (n).

The addition reads as follows:

§ 177.500 Means of escape.

* * * * *

(n) Vessels described by 46 CFR 175.110(d) must ensure that the two means of escape required in paragraph (b) of this section are unobstructed and the door, hatch, or scuttle is not located directly above, or dependent on, a berth.

* * * * *

PART 181 - FIRE PROTECTION EQUIPMENT

- 21. The authority citation for part 181 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(a).

- 22. Amend § 181.405 by revising paragraph (c) to read as follows:

§ 181.405 Spaces required to have fire detection systems.

* * * * *

(c) Vessels described by 46 CFR 175.110(c) must have an interconnected fire detection system in compliance with § 181.450 installed in all enclosed areas where passengers and crew have routine access, including accommodation spaces and machinery spaces.

* * * * *

- 23. Revise § 181.450 to read as follows:

§ 181.450 Interconnected detection and alarm system.

- (a) An interconnected detection and alarm system must:

(1) Consist of multiple-station smoke detectors listed by an NRTL, or independent laboratory accepted by the Commandant according to 46 CFR subpart 159.010, as meeting UL 217 (incorporated by reference, see 46 CFR 175.600);

(2) Be installed such that the actuation of alarm in one area results in both audible and visual alarms in all areas required by 46 CFR 181.405(c) or 118.400(d) to be protected by the interconnected detection and alarm system;

(3) Contain an independent power source; and

(4) Alarm on low power.

(b) A fire detection and alarm system of an approved type installed in accordance with 46 CFR part 76 would satisfy the requirements of this section.

PART 185 - OPERATIONS

24. The authority citation for part 185 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(a).

25. Add § 185.364 to subpart C to read as follows:

§ 185.364 Use of potentially hazardous items for commercial purposes.

On vessels described by 46 CFR 175.110(c), flammable items not otherwise covered by the regulations of this subchapter, such as rechargeable batteries, including lithium ion batteries utilized for commercial purposes, must be handled, stored, and operated in a way that mitigates the risk of hazardous conditions.

26. Amend § 185.410 as follows:

a. Redesignate the introductory text as paragraph (a); and

b. Add paragraph (b).

The addition reads as follows:

§ 185.410 Watchmen.

* * * * *

(b) Vessels described by 46 CFR 175.110(d) must submit plans to the cognizant OCMI, in accordance with 46 CFR 176.700, for the installation and use of monitoring device to ensure the wakefulness of the watchmen required in paragraph (a) of this section. Vessels with a keel laid date after March 28, 2022, must include plans for the monitoring device(s) within the plan submissions required in 46 CFR 177.202. The Coast Guard will work with the vessel operators to determine a reasonable implementation schedule once the plans are accepted. The monitoring device(s) must:

(1) Ensure the wakefulness of the crew in the event that the watchman required in paragraph (a) of this section is unresponsive;

(2) Remain operable during the nighttime watch; and

(3) Be arranged to ensure proper coverage of the passenger accommodation spaces, common areas, and spaces with potential fire hazards.

27. Amend § 185.420 as follows:

a. Redesignate paragraphs (b) and (c) as paragraphs (c) and (d);

b. Add new paragraph (b); and

c. In newly redesignated paragraph (c):

i. Add the text “, monthly,” after the word “initial”; and

ii. Remove the text “paragraph (a)” and add, in its place, the text “paragraphs (a) and (b)”.

The addition reads as follows:

§ 185.420 Crew training.

* * * * *

(b) For a vessel described by 46 CFR 175.110(c), the training program in paragraph (a) of this section must address firefighting proficiency and must include, but need not be limited to –

(1) Training in the use and location of firefighting equipment and general firefighting knowledge, including:

- (i) Location of firefighting appliances and emergency escape routes;
 - (ii) Types and sources of ignition;
 - (iii) Flammable materials, fire hazards and spread of fire;
 - (iv) The need for constant vigilance;
 - (v) Actions to be taken on board;
 - (vi) Fire and smoke detection and automatic systems on board; and
 - (vii) Classification of fire and applicable extinguishing agents.
- (2) The drills required by § 185.524, including fire location and fire type; and
- (3) Emergency egress training for each member of the crew, to occur for all

members of the crew –

- (i) At least monthly while such members are employed on board the vessels; and
- (ii) Each time a crew member joins the crew of such vessel.

* * * * *

28. Add § 185.507 to read as follows:

§ 185.507 Passenger egress drills.

(a) The master of a vessel described by 46 CFR 175.110(d) must conduct passenger emergency egress drills from the passengers' assigned overnight accommodation spaces prior to beginning an excursion with new passengers.

(1) If the passengers are not assigned an overnight accommodation space, the master of a vessel described by 46 CFR 175.110(d) must conduct passenger emergency egress drills from an accommodation space prior to beginning an excursion with new passengers.

(2) For the purposes of this section, excursion includes anytime the vessel gets underway, or anytime passengers remain overnight on the vessel.

(b) [Reserved]

29. Delayed indefinitely, amend § 185.507 by adding paragraph (b) to read as follows:

§ 185.507 Passenger egress drills.

* * * * *

(b) Passenger egress drills must be logged or otherwise documented for review by the Coast Guard upon request. The drill entry must include the following information:

- (1) Date and time of the drill; and
- (2) Number of drill participants.

30. Add § 185.515 to read as follows:

§ 185.515 Passenger safety bill.

(a) [Reserved]

(b) Each passenger safety bill required by this section must list:

- (1) The embarkation station and the number and location of the survival craft to which each passenger is assigned, if applicable;
- (2) The fire and emergency signal and the abandon ship signal;
- (3) Essential action that must be taken in an emergency; and
- (4) If immersion suits are provided for passengers, the location of the suits and illustrated instructions on the method of donning the suits.

31. Delayed indefinitely, amend § 185.515 by adding paragraph (a) to read as follows:

§ 185.515 Passenger safety bill.

(a) On vessels described by 46 CFR 175.110(d), a passenger safety bill must be posted by the master in each cabin or stateroom, and in passenger accommodation spaces.

* * * * *

Dated: December 15, 2021.

J. W. MAUGER,
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[FR Doc. 2021-27549 Filed: 12/23/2021 8:45 am; Publication Date: 12/27/2021]